Subpart C—Preferred Surety Bond (PSB) Guarantees

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SOURCE: 61 FR 3271, Jan. 31, 1996, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 115 appear at 72 FR 50038, Aug. 30, 2007.

§ 115.1 Overview of regulations.

The regulations in this part cover the SBA's Surety Bond Guarantee Programs under Part B of Title IV of the Small Business Investment Act of 1958, as amended. Subpart A of this part contains regulations common to both the program requiring prior SBA approval of each bond guarantee (the Prior Approval Program) and the program not requiring prior approval (the PSB Program). Subpart B of this part contains the regulations applicable only to the Prior Approval Program. Subpart C of this part contains the regulations applicable only to the PSB Program.

§ 115.2 Savings clause.

Transactions affected by this part 115 are governed by the regulations in effect at the time they occur.

Subpart A—Provisions for All Surety Bond Guarantees

§ 115.10 Definitions.

Affiliate is defined in part 121 of this chapter.

Ancillary Bond means a bond incidental and essential to the performance of a Contract for which there is a guaranteed Final Bond.

Applicable Statutory Limit means the maximum amount of any Contract or Order for which section 411(a) of the Small Business Investment Act, as amended from time to time, or other law, authorizes SBA to guarantee, or commit to guarantee, a Bid Bond, Payment Bond, Performance Bond, or Ancillary Bond.

Bid Bond means a bond conditioned upon the bidder on a Contract entering into the Contract, and furnishing the required Payment and Performance Bonds. The term does not include a forfeiture bond unless it is issued for a jurisdiction where statute or settled decisional law requires forfeiture bonds for public works.

Contract means a written obligation of the Principal, including an Order, requiring the furnishing of services, supplies, labor, materials, machinery, equipment, or construction. A Contract must not prohibit a Surety from performing the Contract upon default of the Principal. A contract does not include a permit, subdivision contract, lease, land contract, evidence of debt, financial guarantee (e.g., a contract requiring any payment by the Principal to the Obligee, except for contracts in connection with bid and performance bonds for the sale of timber and/or other forest products, such as biomass, that require the Principal to pay the Obligee), warranty of performance or efficiency, warranty of fidelity, or release of lien (other than for claims under a guaranteed bond). It includes a maintenance agreement of 2 years or less which covers defective workmanship or materials only. With SBA's written approval, it can also include a longer maintenance agreement covering defective workmanship or materials, or a maintenance agreement covering something other than defective workmanship or materials. To qualify for such approval, the agreement must be ancillary to the Contract for which SBA is guaranteeing a bond, must be required to be performed by the same Principal, and must be customarily required in the relevant trade or industry.